

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY ALICE VALENTE
a.k.a. MARY VALENTE
P.O. Box 430
Penryn, CA 95663

Registered Nurse License No. 460886

Respondent

Case No. 2012-729

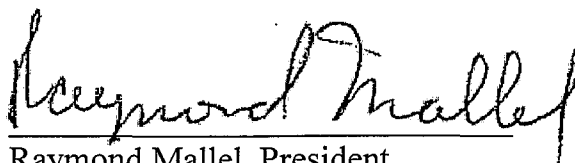
OAH No. 2012070457

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **November 27, 2012.**

IT IS SO ORDERED **November 27, 2012.**



Raymond Malle, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
4 State Bar No. 117576
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7 *Attorneys for Complainant*

ORIGINAL

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

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12 **MARY ALICE VALENTE**
13 **a.k.a. MARY VALENTE**
P. O. Box 430
Penryn, CA 95663

Case No. 2012-729

OA# No. 2012070457

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Registered Nurse License No. 460886

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the
20 Board of Registered Nursing, Department of Consumer Affairs, ("Board"). She brought this
21 action solely in her official capacity and is represented in this matter by Kamala D. Harris,
22 Attorney General of the State of California, by Leslie A. Burgermyer, Deputy Attorney General.
23 2. Mary Alice Valente, also known as Mary Valente, ("Respondent") is represented in
24 this proceeding by attorney Paul Chan whose address is Paul Chan, Esq., 2311 Capitol Avenue,
25 Sacramento, CA, 95816.

26 3. On or about January 31, 1991, the Board issued Registered Nurse License No.
27 460886 to Respondent. The Registered Nurse License was in full force and effect at all times
28

1 relevant to the charges brought in Accusation No. 2012-729 and will expire on March 31, 2014,
2 unless renewed.

3 JURISDICTION

4 2. Accusation No. 2012-729 was filed before the Board and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on June 6, 2012. Respondent timely filed her Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 2012-729 is attached as Exhibit A and incorporated by
8 reference.

9 ADVISEMENT AND WAIVERS

10 3. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 2012-729. Respondent also has carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
13 Order.

14 4. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 5. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 6. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 2012-729, agrees that cause exists for discipline and hereby surrenders her Registered Nurse
26 License No. 460886 for the Board's formal acceptance.

27 7. Respondent understands that by signing this stipulation she enables the Board to issue
28 an order accepting the surrender of her Registered Nurse License without further process.

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ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 460886, issued to Respondent Mary Alice Valente, also known as Mary Valente, ("Respondent") is surrendered and accepted by the Board of Registered Nursing ("Board").

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2012-729 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,565.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. If Respondent should ever apply or re-apply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2012-729 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board's Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Paul Chan, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

August 29, 2012

Mary Alice Valente
MARY ALICE VALENTE

MARY ALICE VALENTE
Also known as MARY VALENTE
Respondent

I have read and fully discussed with Respondent Mary Alice Valente the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

9/29/12

PAUL CHAN, ESQ.
Attorney for Respondent

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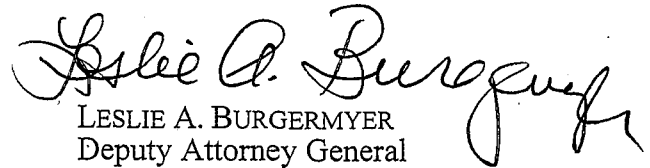
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 8-31-2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


LESLIE A. BURGERMYER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-729

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
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8 **BEFORE THE**
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11 **STATE OF CALIFORNIA**

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12 **MARY ALICE VALENTE,**
13 **a.k.a. MARY VALENTE**
P.O. Box 430
Penryn, CA 95663

Case No. **2012-729**
A C C U S A T I O N

14 Registered Nurse License No. 460886

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about January 31, 1991, the Board issued Registered Nurse License Number
23 460886 to Mary Alice Valente, also known as Mary Valente ("Respondent"). Respondent's
24 registered nurse license was in full force and effect at all times relevant to the charges brought
25 herein and will expire on March 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed
10 nurse or deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct . . .

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record
14 of the conviction shall be conclusive evidence thereof . . .

15 6. Code section 2762 states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within the
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for
18 a person licensed under this chapter to do any of the following:

19 (a) Obtain or possess in violation of law, or prescribe, or except as
20 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
21 himself or herself, or furnish or administer to another, any controlled substance as
22 defined in Division 10 (commencing with Section 11000) of the Health and Safety
23 Code or any dangerous drug or dangerous device as defined in Section 4022.

24 (b) Use any controlled substance as defined in Division 10
25 (commencing with Section 11000) of the Health and Safety Code, or any dangerous
26 drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an
27 extent or in a manner dangerous or injurious to himself or herself, any other person,
28 or the public or to the extent that such use impairs his or her ability to conduct with
safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,
consumption, or self administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof . . .

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1 7. Code section 2765 states:

2 A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere made to a charge substantially related to the qualifications, functions
4 and duties of a registered nurse is deemed to be a conviction within the meaning of
5 this article. The board may order the license or certificate suspended or revoked, or
6 may decline to issue a license or certificate, when the time for appeal has elapsed,
7 or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code
allowing such person to withdraw his or her plea of guilty and to enter a plea of not
guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

8 8. Code section 2770.11 states:

9 (a) Each registered nurse who requests participation in a diversion
10 program shall agree to cooperate with the rehabilitation program designed by a
11 committee. Any failure to comply with the provisions of a rehabilitation program
12 may result in termination of the registered nurse's participation in a program. The
name and license number of a registered nurse who is terminated for any reason,
other than successful completion, shall be reported to the board's enforcement
program.

13 (b) If a committee determines that a registered nurse, who is denied
14 admission into the program or terminated from the program, presents a threat to the
15 public or his or her own health and safety, the committee shall report the name and
16 license number, along with a copy of all diversion records for that registered nurse,
to the board's enforcement program. The board may use any of the records it
receives under this subdivision in any disciplinary proceeding.

17 9. Code section 4022 states, in pertinent part:

18 "Dangerous drug" . . . means any drug . . . unsafe for self-use in
19 humans or animals, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

21 (c) Any other drug . . . that by federal or state law can be lawfully
22 dispensed only on prescription or furnished pursuant to Section 4006.

23 10. Code section 4060 states, in pertinent part:

24 No person shall possess any controlled substance, except that furnished
25 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
26 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
27 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
28 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 . . .

11. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

12. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

COST RECOVERY

13. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES

14. **Buprenorphine** is a Schedule V controlled substance as designated by Health and Safety Code section 11058, subdivision (d).

15. **Morphine**, an opiate, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(L).

RESPONDENT'S TERMINATION FROM BOARD'S

DIVERSION PROGRAM AS A PUBLIC SAFETY RISK

16. On or about July 16, 2009, Respondent was enrolled in the Board's Diversion Program. On or about July 29, 2011, the Diversion Evaluation Committee ("DEC") terminated Respondent from the Diversion Program as a public safety risk due to her relapses of June 6, 2011, and July 23, 2011, and failure to comply with provisions of the rehabilitation plan. On June 6, 2011, Respondent tested positive for the controlled substance Buprenorphine during a random drug test. Respondent admitted to taking her son's prescription medication. The DEC had Respondent resume her daily 12 step meetings, and had her submit a letter explaining her relapse. Respondent tested positive for Buprenorphine again on July 23, 2011 (Respondent admitting taking another dose of her son's prescription medication). The DEC expressed concern regarding

Respondent's lack of insight and inability to demonstrate continuous sobriety after almost two (2) years in the Diversion Program.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

17. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (f), in that on or about February 10, 2010, in the criminal proceeding titled *People v. Mary Valente* (Super. Ct. Sacramento County, 2010, Case No. 09F05390), Respondent pled nolo contendere to violating Health and Safety Code section 11550, subdivision (a) (unlawfully using or being under the influence of a controlled substance), a misdemeanor, and Penal Code section 484, subdivision (a) (theft), a misdemeanor, crimes substantially related to the qualifications, functions, and duties of a registered nurse. The imposition of Respondent's sentence was suspended and Respondent was placed on probation for three (3) years on terms and conditions. The circumstances of the crimes are set forth in subparagraph 18, subdivision (a), below.

SECOND CAUSE FOR DISCIPLINE

(Diversion, Possession, and Self-Administration of Controlled Substances)

18. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that Respondent did the following:

Diversion of Controlled Substances:

a. In and between March and April 2009, while employed as a Supervising Registered Nurse II at California State Prison, Sacramento ("CSP-Sac"), Respondent obtained the controlled substance Morphine by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173, subdivision (a), as follows:

(1) On or about March 29, 2009, Respondent stole three syringes of Morphine 10 mg (a total of 30 mg) from the "crash cart" in CSP-Sac, B-Facility, then used the Morphine 10 mg by injecting it into her right hand.

(2) On or about April 1, 2009, Respondent stole two syringes of Morphine 10 mg (a total of 20 mg) from the crash cart in CSP-Sac, C-Facility, then used the Morphine 10 mg by

1 injecting it into her right hand. Respondent used the remaining 10 mg of Morphine on or about
2 April 3, 2009.

3 (3) On or about April 1, 2009, Respondent picked up 58 tablets of Morphine 15 mg
4 from licensed vocational nurse C. at the "stand alone" in CSP-Sac, Administrative Segregation
5 Unit. Respondent was supposed to deliver the Morphine to the pharmacy, but took the
6 medication home with her for her personal use. On or between April 1, 2009, and April 8, 2009,
7 Respondent ingested 30 tablets of the Morphine. On or about April 8, 2009, Respondent was
8 interviewed by Special Agents of the Officer of Internal Affairs. Respondent told the special
9 agents that she had intended to turn in the remaining 28 tablets of Morphine to CSP-Sac, and
10 provided the agents with the Morphine tablets. Respondent admitted that she took one tablet of
11 Morphine every six (6) hours and that she had been under the influence of Morphine while at
12 work in the past. Respondent also admitted that she took one Morphine tablet on April 5, 2009,
13 while sitting in her vehicle in the CSP-Sac parking lot prior to reporting for duty. Respondent
14 claimed that she had not used Morphine since April 5, 2009; however, she appeared to be under
15 the influence of a controlled substance during the course of her interview. The special agents
16 observed that Respondent's pupils were dilated and her speech was slurred. Later, Respondent
17 was taken to a testing facility, where she underwent a drug screen. Respondent's drug test was
18 positive for opiates.

19 **Possession of Controlled Substances:**

20 b. On and between March 29, 2009, and April 8, 2009, Respondent possessed various
21 quantities of the controlled substance Morphine, as set forth in paragraph 18, subparagraph (a),
22 above, without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian,
23 or naturopathic doctor, in violation of Code section 4060.

24 **Self-Administration of Controlled Substances:**

25 c. On and between March 29, 2009, and April 8, 2009, Respondent self-administered
26 various quantities of the controlled substance Morphine without lawful authority therefor, as set
27 forth in paragraph 18, subparagraph a, above.
28

1 d. On or about June 6, 2011, and July 23, 2011, while enrolled in the Board's Diversion
2 Program, Respondent self-administered the controlled substance Buprenorphine without lawful
3 authority therefor, as set forth in paragraph 16, above.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Use of Controlled Substances to an Extent or in a Manner**

6 **Dangerous or Injurious to Oneself or Others)**

7 19. Respondent is subject to disciplinary action pursuant to Code section 2761,
8 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
9 subdivision (b), in that on and between March 29, 2009, and April 8, 2009, Respondent used the
10 controlled substance Morphine to an extent or in a manner dangerous or injurious to herself and
11 others and/or to the extent that such use impaired her ability to conduct her nursing duties safely,
12 as set forth in paragraph 18, subparagraph a, above.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Conviction Related to the Consumption of Controlled Substances)**

15 20. Respondent is subject to disciplinary action pursuant to Code section 2761,
16 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
17 subdivision (c), in that on or about February 10, 2010, Respondent was convicted of a criminal
18 offense involving the consumption of controlled substances, as set forth in paragraph 17, above.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Administered and Furnished Controlled Substance to Herself)**

21 21. Respondent is subject to disciplinary action pursuant to Code section 2761,
22 subdivision (a), on the grounds of unprofessional conduct, as follows:

23 a. On and between March 29, 2009, and April 8, 2009, Respondent furnished the
24 controlled substance Morphine to herself in violation of Health and Safety Code section 11170, as
25 set forth in paragraph 18, subparagraph a, above.

26 b. On and between March 29, 2009, and April 8, 2009, Respondent self-administered
27 the controlled substance Morphine to herself, in violation of Health and Safety Code section
28 11170, as set forth in paragraph 18, subparagraph a, above.

1 c. On or about June 6, 2011, and July 23, 2011, Respondent furnished the controlled
2 substance Buprenorphine to herself in violation of Health and Safety Code section 11170, as set
3 forth in paragraph 16, above.

4 d. On or about June 6, 2011, and July 23, 2011, Respondent self-administered the
5 controlled substance Buprenorphine to herself in violation of Health and Safety Code section
6 11170, as set forth in paragraph 16, above.

7 **PRAYER**

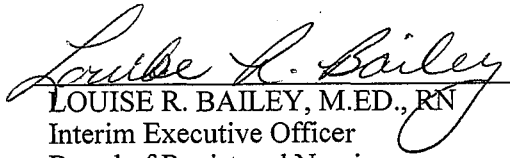
8 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 460886, issued to Mary
11 Alice Valente, also known as Mary Valente;

12 2. Ordering Mary Alice Valente, also known as Mary Valente, to pay the Board of
13 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED: June 6, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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